

REMARKS

This Response is in reply to the Office Action mailed on July 28, 2006. Claims 1-20 and 23 are pending. Applicant appreciates Examiner's indication that claims 2-4 and 6-12 would be allowable if not for their dependence from a rejected base claim. In the previous Amendment, dated July 17, 2006, the claims were amended to recite "bottle" instead of "container" based on Examiner's indication in the previous office action, dated February 16, 2006, that claim 21, which recited "bottle," is allowable. However, upon the Examiner's withdrawal of the allowance of claim 21 based on the new search, Applicant has amended the claims back to their previous form using "container" instead of "bottle". Support for the amendments to claim 1 can be found in the first paragraph of page 2 of the specification and the figures. No new matter has been added. Consideration of the following remarks is respectfully requested.

Claims 1, 5, and 13-20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Burch in view of Orendorff et al., and further in view of Horiuchi. Examiner relies on the Burch reference as the primary reference to teach all the limitations of independent claim 1, except for the dispensing means, which, according to the Examiner, is taught by Orendorff. This rejection is respectfully traversed.

As previously argued in the Amendment dated August 23, 2005, and again in the Amendment dated May 16, 2006, the Burch and Orendorff references are non-analogous art. Both references relate to creating a picture frame aquarium. The claimed invention relates to the wholly unrelated art of creating a customizable dispenser. Examiner has yet to address this argument in any of the office actions or the advisory action. Although Examiner continues to argue that Orendorff teaches a dispensing means as represented by the drain plug, this begs the

question of whether the cited references as a whole may serve as prior art at all, regardless of the features that they teach.

The cited references differ from the claimed invention, not only in their structure, but even in the problems they were trying to solve, rendering them totally irrelevant. For example, Examiner has posited that Burch teaches all the elements of claim 1 except for the dispensing means. However, this is not the case. Claim 1, even as previously presented, recited that the frame apparatus holds media. In Burch, the frame ostensibly holds the container, but certainly not any media. An amendment, however, has been made herein to clarify the manner in which the media is held by the frame. The claim as amended is even further distinguishable over the reference. Moreover, since the secondary reference, Orendorff, was only used by the Examiner to teach the dispensing means, the structure of the claimed invention is not taught by the cited references. Accordingly, it is applicant's contention that, even without the current clarifying amendment, and certainly with them, the claims are allowable.

Regarding the question of analogous art, Examiner has already conceded that Burch has no dispensing means. What, then, makes Burch analogous art to a dispenser for dispensing materials? The inventor of the present invention struggled with and was successful at finding a dispenser, such as a perfume bottle, that can be customized by attaching media to the container via a frame apparatus. This objective is clearly stated as the object of the invention in the first paragraph of page 2 of the specification. The media can be changed to fit the ever-changing preferences of the user. A framed aquarium, such as that taught by Burch, is a separate and unrelated problem. The solution of Burch does not relate to customizing a dispenser with media. In fact, Examiner has not even clearly indicated what element of Burch corresponds to the media. To further buttress the argument, Burch resides in class 119 (Animal husbandry),

whereas the present invention has been assigned class 222 (dispensing); clearly unrelated fields of art. In order to further convey the objective of the invention, claim 1 has also been amended herein to state that the media is held interchangeably, thereby clarifying the aptitude of the present invention for customization.

Orendorff also fails to disclose the structure of the claimed invention, as well as fails to constitute analogous art to the present invention. The structural differences between the claimed invention need little treatment since the reference was only introduced to teach a single element. However, for the sake of being thorough, Orendorff shows no frame for holding media, nor a locking means. Orendorff may be further distinguished from the claimed invention as currently amended because it does not hold the media against a side of the container.

Finally, despite the arguments of the Examiner to the contrary, the drain plug of Orendorff is not a dispensing means. Examiner's definition is outside the context of the specification or even the claim itself. The claimed invention is a dispenser for dispensing materials. The dispenser includes, among other elements, a container to hold the material and a dispensing means for dispensing the material. It is clear from the context of the claim and supported by the specification and previously submitted dictionary definitions, that, in this case, the dispensing means is a means for doling out or distributing the material in the container for use. It is not the equivalent of a drain which is a means for emptying in order to discard. Even if Examiner continues to maintain his definition of dispensing means, the combination of Burch and Orendorff still do not show a frame portion for holding media, especially not in the manner recited in claim 1 as currently amended.

Regarding the use of Orendorff as prior art, it is Applicant's contention that Orendorff too is non-analogous art. As with Burch, Orendorff relates to a fish tank and not a dispenser for

dispensing materials. Even assuming, *arguendo*, that Orendorff is capable of dispensing water from the fish tank in accordance with the Examiner's definition, the fish tank of Orendorff would still not be viewed as a dispenser for dispensing materials by those of ordinary skill in the dispenser bottle art. It is true that there are many types of dispensers, but fish tanks are not one of them. One skilled in the art at the time the invention was made would not look to advancements in the art of fish tank frames in order to solve a design question that pertains to dispensing containers, such as perfume bottles. Examiner is improperly relying on hindsight to artificially reconstruct the thought process of one skilled in the art at the time the invention was made. The lack of analogy between the cited reference and the present invention is further apparent from their classifications at the patent office. Orendorff is classified under 119 (Animal husbandry), whereas the present invention is under 222 (Dispenser). Two unrelated fields. Furthermore, class 222 is not even one of the classes that were searched in the Orendorff patent. Clearly, the cited reference is non-analogous.

In view of the above, both the Burch reference and the Orendorff reference cannot be used in an obviousness rejection under § 103 because they are non-analogous art. Further, even if one were to combine the teachings of these references the result would not be the claimed invention, as described above. Accordingly, in view of the arguments presented above, and the amendments to claim 1 presented herein, it is respectfully submitted that claim 1 is patentable over the cited references. Furthermore, for at least the reason of their dependency from claim 1, either directly or indirectly, it is respectfully submitted that claims 2-20 and 23 are also patentable.

CONCLUSION

In view of the amendments and arguments presented above, it is submitted that the Examiner's rejections have been overcome and should be withdrawn. The application should now be in condition for allowance.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

This Response is being timely filed. In the event that any other extensions and/or fees are required for the entry of this Amendment, the Patent and Trademark Office is specifically authorized to charge such fee to Deposit Account No. 23-2820 in the name of Wolf, Block, Schorr & Solis-Cohen LLP. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,
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LLP.

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